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February 25, 2013

Secretary Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **California Small ILECs' Ex Parte Letter in Support of United States
Telecom Association Petition for Reconsideration and Clarification, April 2,
2012; WC Docket Nos. 03-109, 12-23, and 11-42; CC Docket No. 96-45**

Dear Secretary Dortch:

On behalf of a group of small, rural Incumbent Local Exchange Carriers serving rural and remote areas of California (collectively, the "California Small ILECs"¹), we are writing to express our support for a part of the United States Telecom Association's ("USTA's") Petition for Reconsideration and Clarification, filed in the above-referenced dockets on April 2, 2012 (the "Petition").

USTA's Petition urges the FCC to consider the elimination of 47 C.F.R. Sections 54.410(b)(2)(ii) and 54.410(c)(2)(ii) of its rules, which require a state administrator to provide copies of Lifeline subscribers' certification forms to the Eligible Telecommunications Carrier. *USTA Petition*, at pp. 5-7. On November 16, 2012, the Oregon Public Utilities Commission and the Oregon Telecommunications Association (collectively, "Oregon") filed an ex parte letter supporting the reconsideration of these rules as identified in USTA's Petition. The California Small ILECs wish to add their support for the relief sought by USTA.

The California Public Utilities Commission (the "CPUC") previously filed a related Petition for Permanent Waiver of the same rules on April 26, 2012 in the same dockets. In the FCC's Waiver Order, the FCC granted in part and denied in part the CPUC's Petition, explaining that "ETCs have an obligation to maintain records to document compliance with all Lifeline program requirements per section 54.417."

¹ The California Small ILECs are the following carriers: Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Foresthill Telephone Co., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, Volcano Telephone Company, and Winterhaven Telephone Company.

The California Small ILECs appreciate the FCC's continuing efforts to reduce fraud and waste in the Lifeline program, and believe that modifying the rules that require ETCs to obtain certification forms in states with a third-party Lifeline administrator would be consistent with these efforts. In states where a third-party administrator is responsible for certification of Lifeline customers, the operative effect of the rules requiring certification documentation to be sent directly to ETCs is increased cost and administrative burden. The California Small ILECs agree with USTA and Oregon's recommendation to allow state and third-party administrators to provide an ETC with notice that a subscriber qualifies for Lifeline and has executed a certification form as required by the rules. *USTA Petition*, at p. 6; *Oregon Ex Parte Letter*, at p. 1. The California Small ILECs believe that a notice of compliance would appropriately satisfy the FCC's accountability concerns without imposing additional costs on participating carriers.

The FCC rules requiring third-party administrators to transfer certification forms to ETCs are burdensome, duplicative, and create unnecessary costs. In California, the third-party administrator is responsible for certifying applicants by mailing, processing, and verifying applications and supporting financial or qualifying documentation. As the certifying entity, the third-party administrator is in the best position to maintain subscriber certification and re-certification forms. Obligating the third-party administrator to transfer these certification forms to ETCs is duplicative and would impose additional unnecessary administrative burdens and costs. These concerns are compounded by the FCC's annual re-certification requirements, which impose ongoing costs for third-party administrators and ETCs to update subscriber certification forms on an annual basis. To further add to these problems, California's third-party administrator has indicated that it is unable to separate certification forms from underlying supporting documents that may include personal subscriber information that would require additional administrative precautions.² Given that California's third-party administrator has indicated that it will retain subscriber certification forms and make them available to ETCs upon request, it is unnecessary to duplicate record-keeping efforts by obligating ETCs to obtain copies of subscriber certification forms.

The costs resulting from these rules are even more substantial for small, rural companies with small-scale operations and limited resources. In order to comply with these rules, California Small ILECs may have to increase personnel to meet the ongoing demands of obtaining, maintaining, and updating subscriber certification forms. At the very least, California Small ILECs will have to enhance storage capabilities and incur costs in housing the additional data. Furthermore, assuming that California is unable to separate certification forms from underlying eligibility documentation, additional resources would be required to handle sensitive

² The California Small ILECs recognize that the FCC granted the CPUC a six-month waiver to comply with sections 54.410(b)(2)(ii) and 54.410(c)(2)(ii) of its rules so that the CPUC and the third-party administrator may develop an alternative mechanism. Nevertheless, it is currently unclear whether California will be willing to develop a process to provide ETCs with only the certification form.

consumer information. The California Small ILECs urge the Commission to recognize that the additional costs and burdens are not justified when parallel records would be retained by California's third-party administrator.

For states that utilize a third-party administrator, adopting USTA and Oregon's proposal to permit ETCs to meet certification requirements through a notice of compliance would accomplish the same objectives underlying 47 C.F.R. Sections 54.410(b)(2)(ii) and 54.410(c)(2)(ii). As the FCC has explained, "ETCs have an obligation to maintain records to document compliance with all Lifeline program requirements per section 54.417" and the certification requirements are intended to ensure that "ETCs only seek reimbursement for subscribers who have executed a certification form attesting to their compliance with the Lifeline program requirements." *Waiver Order (DA-12-863)*, at ¶¶ 5, 7. Since California ETCs are not involved in certifying Lifeline participants or in reviewing applications, obtaining a notice would be the functional equivalent of a certification form, but would not involve the additional burdens and costs discussed above. California ILECs believe the proposed notice would sufficiently meet the FCC's stated expectation that ETCs maintain records to document compliance.

The California Small ILECs respectfully request that the FCC reconsider the rules requiring ETCs in states with a third-party administrator to obtain certification forms. For states like California, the additional obligation of transferring certification forms from a certifying third-party administrator to ETCs is costly and duplicative. Furthermore, transferring certification forms to ETCs that are not responsible for certifying customers would only marginally increase accountability in a manner that reduces program fraud and waste. For all the reasons stated above, the California Small ILECs support USTA's Petition to the extent that it requests reconsideration of sections 54.410(b)(2)(ii) and 54.410(c)(2)(ii) of the FCC's rules.

Should you have any questions, please do not hesitate to contact me at (415) 765-0369.

Very truly yours,



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